

**Notice of Allowability**

Application No.

10/751,218

Applicant(s)

METCALF, ROBERT

Examiner

Art Unit

Lars A Olson

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☐ This communication is responsive to \_\_\_\_.
2. ☒ The allowed claim(s) is/are 1-15.
3. ☒ The drawings filed on 31 December 2003 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_

### **Examiner's Amendment**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. On line 14 of Claim 7, the word "said" has been added before the phrase "second base connector".
3. On lines 20-21 of Claim 7, the word "a" has been deleted before the phrase "lower portions".
4. On line 17 of Claim 13, the word "said" has been added before the phrase "second base connector".
5. On lines 22-23 of Claim 13, the word "a" has been deleted before the phrase "lower portions".

### **Reasons for Allowance**

6. Claims 1-15 are allowed.
7. The following is an examiner's statement of reasons for allowance. The wake tower for a sports boat as claimed is not shown or suggested in the prior art because of the use of a wake tower that is comprised of an upwardly extending first base connector that is connected to a first gunwale of said sports boat, an upwardly extending second base connector that is connected to a second gunwale of said sports boat, and a

generally U-shaped and upwardly extending structural assembly that is further comprised of a first curved side that is connected to said first base connector, a second curved side that is connected to said second base connector, and a bight portion that is connected to and spans said first and second curved sides, where each of said curved sides is further comprised of a side connector that is pivotally connected to said base connector, and a pair of inwardly curved tubular members that are interconnected with said side connector.

8. The prior art as disclosed by Wiggen et al. (US 5,052,326) shows the use of a sports boat in combination with a wake tower, said wake tower being comprised of upwardly extending first and second base members that are attached to first and second gunwales of said boat, and a generally U-shaped, upwardly extending structural assembly having first and second curved sides that are respectively connected to said first and second base members, where each of said sides have an upper portion and a lower portion with a generally oval-shaped cross-section. Larson et al. (US 5,979,350) discloses a sports boat in combination with a wake tower, said wake tower being comprised of a generally U-shaped, upwardly extending structural assembly with first and second sides and a generally circular cross-section, and first and second connector segments that are pivotally connected to first and second base members in order to allow said structural assembly to pivot between a first upstanding position and a second position. However, none of the prior art cited shows or suggests the use of a wake tower in combination with a sports boat, said wake tower being comprised of an upwardly extending first base connector that is connected to a first gunwale of said

sports boat, an upwardly extending second base connector that is connected to a second gunwale of said sports boat, and a generally U-shaped and upwardly extending structural assembly that is further comprised of a first curved side that is connected to said first base connector, a second curved side that is connected to said second base connector, and a bight portion that is connected to and spans said first and second curved sides, where each of said curved sides is further comprised of a side connector that is pivotally connected to said base connector, and a pair of inwardly curved tubular members that are interconnected with said side connector.

### ***Conclusion***

9. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

10. Any inquiry concerning this communication from the examiner should be directed to Exr. Lars Olson whose telephone number is (703) 308-9807.

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July 26, 2004

LARS A. OLSON  
PATENT EXAMINER  
*Lars Olson*  
7/26/04